

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	CRIMINAL NO. 4:03CR13(1)
v.	§	
	§	
FRANCIS S. SHIN	§	

**REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on July 8, 2010 to determine whether the Defendant violated his supervised release. The Defendant was represented by Frank Henderson. The Government was represented by Terri Hagan.

On December 16, 2003, the Defendant was sentenced by the Honorable Leonard Davis, United States District Judge, to 15-months imprisonment followed by a 5-year term of supervised release. The term of supervised release was revoked on February 9, 2006, and the Defendant was sentenced to 6-months imprisonment followed by an additional 54-months of supervised release. The second term of supervised release was revoked on July 8, 2009 and the Defendant was sentenced to 10-months imprisonment followed by a 44-month term of supervised released.

On May 27, 2010, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (Dkt. 86). The petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month; (2) Defendant shall notify the probation officer at least ten days prior to any change in residence or employment; (3) Defendant is to pay restitution totaling \$97,297.92 on a monthly basis at a rate of at least 10% of the Defendant's gross income; and (4) Defendant shall reside in a residential reentry center or similar facility, in a prerelease component for a period of 120 days to commence upon release from confinement and shall observe the rules of that facility

The petition alleges that Defendant committed the following violations: (1) Defendant failed to submit a written monthly report within the first five days of the month for the months of March and April 2010; (2) Defendant failed to notify the U.S. Probation Office of his termination from his place of employment, Burlington North Sante Fe, an unannounced employment visit on May 14, 2010, indicated he was no longer employed at his last reported place of employment, the U.S. Probation Office made an unannounced home visit on May 19, 2010, and was informed by the homeowner that the Defendant moved out of this residence two weeks prior, the Defendant's whereabouts were unknown as he has failed to notify the U.S. Probation Office of his change of residence; (3) Defendant has failed to pay restitution as directed and is default status, an outstanding balance of \$94,297.92 remains, and the Defendant has not made any restitution payments during this term of supervised release; and (4) Defendant failed to report to the Volunteers of America

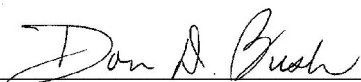
Residential Reentry Center in Hutchins, TX on April 1, 2010, as directed by the U.S. Probation Office.

At the hearing, Defendant entered a plea of true to the alleged violations of conditions of his supervised release. The Court finds that Defendant has violated the terms of his supervised release. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court.

### **RECOMMENDATION**

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the June 29, 2010 hearing, the Court recommends that the Defendant be committed to of the Bureau of Prisons to be imprisoned for a term of 10 months, no supervised release to follow. The Court further recommends that Defendant be required to pay the remainder of his restitution in the amount of \$97,297.92 to Wells Fargo Bank, due immediately, payable by cashier's check or money order to the United States District Court and forwarded to the United States District Clerk's Office, P.O. Box 570, Tyler, Texas 75710. The Court further recommends that Defendant's term of imprisonment be carried out in Bureau of Prisons facility located in Seagoville, Texas, if appropriate.

**SIGNED this 12th day of July, 2010.**

  
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DON D. BUSH  
UNITED STATES MAGISTRATE JUDGE